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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
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7 FIDEL H. PAJARILLO,
8 Debtor.

9 FIDEL H. PAJARILLO,
10 Appellant,
11

12 vs.

13 SFR INVESTMENTS POOL 1, LLC et al.,
14 Appellees.
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Case No. 2:13-cv-01935-RJC
Adv. No. 13-ap-1053-BAM
Bankr. No. 13-bk-12137-BAM

ORDER

16 Debtor–Appellant Fidel Pajarillo (“Appellant”) filed the underlying adversary proceeding
17 to quiet title to certain real property in Las Vegas. Several Appellees moved to dismiss because
18 the property had been sold at an HOA foreclosure sale, such that Plaintiff could assert no further
19 interest in the property. The bankruptcy judge granted the motion after a hearing. *In re Pajarillo*,
20 No. 13-ap-1053-BAM, ECF No. 52 (Sept. 9, 2013) (order granting motion to dismiss). Appellant
21 appealed to the Bankruptcy Appellate Panel (“BAP”), but one or more Appellees requested the
22 present forum, so the BAP transferred the appeal here. Appellant filed no opening brief by
23 November 8, 2013, as the BAP had ordered. Nor did he file an opening brief by December 7,
24 2013, in accordance with the request for extension of time he improperly filed in the underlying

1 bankruptcy case. Nor did he file an opening brief by January 8, 2014, in accordance with the
2 second request for extension of time he again improperly filed in the underlying bankruptcy case.
3 Appellees moved to dismiss the appeal. Appellant did not timely respond, and the Court granted
4 the motion for failure to prosecute the appeal. (Order, ECF No. 8.) *See* Local. R. Bankr. P.
5 8070(a). Appellant then moved the Court to reconsider, and the Court denied the motion. (Order,
6 ECF No. 21.)

7 Appellant appealed the Court's dismissal of his bankruptcy appeal to the Ninth Circuit,
8 which vacated and remanded the Court's order. (Memo. Op., ECF No. 27.) The Ninth Circuit
9 found the Court abused its discretion by dismissing the bankruptcy appeal for failure to prosecute
10 without explicitly considering alternative sanctions.

11 With the bankruptcy appeal now on remand, Appellees Bank of America, N.A.,
12 ReconTrust Company, N.A., and BAC Home Loans Servicing, Inc. (hereinafter collectively "the
13 Bank of America Defendants") move to be dismissed from this litigation. (Mot. Dismiss, ECF
14 No. 40.) The Court grants the motion. The Bank of America Defendants were previously
15 dismissed with prejudice by the bankruptcy court. *In re Pajarillo*, No. 13-ap-1053-BAM, ECF
16 No. 38 (July 26, 2013) (order granting motion to dismiss). Appellant did not appeal this
17 dismissal order. *See* Notice of Transfer of Appeal, ECF No. 1 at 12 (indicating that Appellant
18 appealed only Order #52 on the adversary docket, which was entered on September 9, 2013).
19 Furthermore, Appellant concedes that the Bank of America Defendants have no interest in the
20 subject property at 4856 La Cumbre Drive, Las Vegas, Nevada 89147. (Resp., ECF No. 45 at 3.)
21 The La Cumbre Drive property is the only property at issue in this proceeding. *In re Pajarillo*,
22 No. 13-ap-1053-BAM, ECF No. 1 at 2–3 (Mar. 28, 2013) (complaint).

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1 **CONCLUSION**

2 IT IS HEREBY ORDERED that the motion (ECF No. 40) is GRANTED WITH
3 PREJUDICE.

4 IT IS SO ORDERED.

5 DATED: This 23rd day of May, 2017.

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8 ROBERT C. JONES
9 United States District Judge
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